IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

WP(C).No. 26182 of 2006(P)

PETITIONER:

ELSTONE TEA ESTATE LIMITED,
P.B.NO.21, KALPETTA-673 121, WAYANAD DISTRICT,
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.PHILIP M.VARUGHESE

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
DISTRICT COLLECTOR, WAYANAD DISTRICT.

2. LAND ACQUISITION OFFICER,
(DEPUTY COLLECTOR LA), WAYANAD.

BY ADV. SRI.MATHEWS K.PHILIP,SC, BSNL
GOVERNMENT PLEADER SRI.L.G.SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.HEMA, J.

W.P.(C).NO. 26182 OF 2006

Dated this the 7th day of December, 2006

JUDGMENT

This petition is filed for issue of a writ or direction calling for the records leading to Exhibit P1 notification and Exhibit P4 notice issued under Section 9(3) of the Land Acquisition Act ('the Act', for short) and quash the same. The other prayer is to issue writ or direction declaring that Exhibit P1 has lapsed as there is no declaration as contemplated under proviso (ii) to Section 6(1) of the Act.

2. The petitioner is a company incorporated under the Companies Act. An extent of 0.2024 hectares of land in Sy.No.505/1 of Kottappady Village owned by the petitioner is proposed to be acquired for the purpose of telephone exchange. A notification under Section 6 of the Act was issued and the copy is Exhibit P1. Thereafter declaration under Section 6 was also made, notice under Section 9 was issued and enquiry was conducted and an award was passed on 30.9.2006. According to learned counsel for petitioner, all the proceedings pursuant to Exhibits P1 and P4 are illegal and liable to be quashed.

3. The first ground taken up by the petitioner is that the award passed in this case is beyond the time prescribed under Section 11A of the Act. Section 11A provides that the Collector shall make an award under Section 11 within a period of two years from the date of publication of the declaration and if no award is made within that period, the entire

proceedings for the acquisition of the land shall lapse. In this case, the award itself shows that the last date of publication of declaration in 'Mathrubhoomi' and 'Desabhimani' dailies are on 27.10.2004 and 26.10.2004 respectively. There is no dispute on this. The award is passed on 30.9.2006. Therefore, the award passed is well within the time prescribed and the acquisition proceedings shall not lapse by virtue of violation of Section 11 of the Act, as contended.

4. The second ground is that there was no declaration as contemplated under proviso (ii) to Section 1 of Section 6 of the Act and therefore the notification, Exhibit P1 has to be declared as lapsed. Sub-section (ii) to Section 6(1) of the Act shows that no declaration in respect of any particular land covered by a notification under Section 4(1) be published after the commencement of Land Acquisition Amendment Act, 1984 shall be made after the expiry of one year from the date of publication of the notification. The date of publication in the two dailies are on 20.9.2003. But the declaration was made on 15.9.2004, as evidenced by Exhibit R3(H). Therefore, the declaration was not made after expiry of one year from the date of publication of notification under Section 4(1) of the Act. On this ground also, petitioner is not entitled to get any relief as prayed for.

This Writ Petition is dismissed.

K.HEMA, JUDGE

vgs.